

1 HONORABLE RONALD B. LEIGHTON  
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7 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

8 CECIL DUDGEON,

9 Plaintiff,

10 v.

11 KELLY CUNNINGHAM, CAREY  
12 STURGEON, MELISSA SOHOLSTROM,  
and JOSEPH MITROVICH,

13 Defendants.

14 Case No. C10-5372RBL

15 ORDER

16 THIS MATTER comes on before the above-entitled Court upon Plaintiff's Notice of Interlocutory  
17 Appeal pursuant to 28 U.S.C. § 1292(b) [Dkt. #22]. Having considered the entirety of the records and file  
herein, the Court finds and rules as follows:

18 Plaintiff filed in this Court a Notice of Interlocutory Appeal and also filed a Request for  
19 Permission to Appeal pursuant to 28 U.S.C. § 1292(b) in the Ninth Circuit Court of Appeals. Pursuant to  
20 Fed. R. App. P. 5 and Circuit Rule 3-1, a Notice of Appeal should not be filed when seeking permission  
21 to appeal. Therefore, the Clerk of this Court shall vacate the submission of the Notice of Appeal [Dkt.  
22 #22].

23 **IT IS SO ORDERED.**

24 The Clerk shall send uncertified copies of this order to all counsel of record, to the Ninth Circuit  
25 Court of Appeals, and to any party appearing pro se.

26 Dated this 21<sup>st</sup> day of September, 2010.

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RONALD B. LEIGHTON  
28 UNITED STATES DISTRICT JUDGE